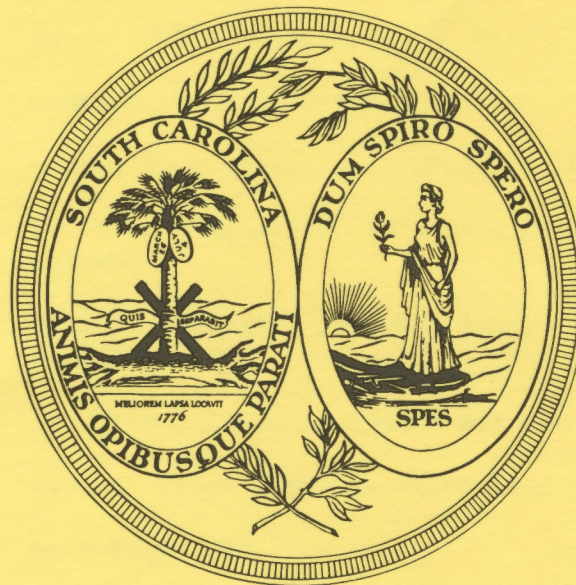


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**SOUTH CAROLINA  
DEPARTMENT OF  
CONSUMER AFFAIRS**



**ANNUAL REPORT  
1990-1991**

Printed Under The Direction Of The  
State Budget And Control Board



## LETTER OF TRANSMITTAL

The Honorable Carroll Campbell Governor and Members of the General Assembly.

Gentlemen and Ladies:

We are pleased to submit, in accordance with the requirements of the S.C. Consumer Protection Code, the Fifteenth Annual Report of the S.C. Department of Consumer Affairs for the period July 1, 1990 to June 30, 1991. Correspondence may be addressed to all Commissioners, c/o S.C. Department of Consumer Affairs, Post Office Box 5757, Columbia, S.C. 29250

Respectfully submitted,

COMMISSION ON CONSUMER AFFAIRS

Lehman A. Moseley, Jr., Chairman, Greenville

Dr. Lonnie Randolph, Jr., Vice Chairman,  
Columbia

John T. Campbell, Columbia (served through  
December, 1990)

Jim Miles, Columbia (began serving January, 1991)

Rev. A. Clark Jenkins, Columbia

Gene McCaskill, Camden

Richard C. Moore, Greenville

Thomas L. Moore, Clearwater

Timothy F. Rogers, Columbia

DeAnna Trout, Moncks Corner

Emil W. Wald, Rock Hill

Harry Walker, Columbia

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**STATE DOCUMENTS**



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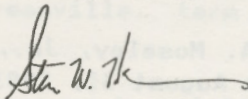
## REPORT

TO: The S.C. Commission on Consumer Affairs

Gentlemen and Ladies:

In compliance with the requirements of the S.C. Consumer Protection Code, I am pleased to provide you with the Fifteenth Annual Report of the S.C. Department of Consumer Affairs covering Fiscal Year 1991. This is the sixteenth full-year report of the S.C. Department of Consumer Affairs and includes information on its operation, functions, duties, and organization. Information on consumer complaints and registered creditors subject to the provisions of the S.C. Consumer Protection Code is included in summary form.

Respectfully submitted,



Steven W. Hamm  
Administrator

October 15, 1991

Columbia, South Carolina



DEPARTMENT OF CONSUMER AFFAIRS  
Organization

I. COMMISSION ON CONSUMER AFFAIRS

The Commission on Consumer Affairs is composed of 11 members, one of whom is the Secretary of State. Of the remaining 10 members, one each is elected from the membership of the Senate and the House of Representatives. The General Assembly elects four other members from outside the legislature and the Governor appoints four other members whose appointments are confirmed by the Senate. The commission is the policy making and governing authority of the S.C. Department of Consumer Affairs, appoints the Administrator and is responsible for enforcement of the S.C. Consumer Protection Code. As of the date of this report, the members of the S.C. Commission on Consumer Affairs are:

Mr. Lehman A. Moseley, Jr., Chairman, Attorney, Greenville, term expires August 31, 1993.

Dr. Lonnie Randolph, Jr., Vice-Chairman, Optometrist, Columbia, term expires August 31, 1990.

Secretary of State Jim Miles, Columbia.

Rev. A. Clark Jenkins, Minister, Johns Island, term expires August 31, 1989.

Gene McCaskill, Businessman, term expires August 31, 1991.

Mr. Richard C. Moore, Attorney, Greenville, term expires August 31, 1992.

Sen. Thomas L. Moore, Businessman, Clearwater, term runs concurrent with term of office.

Rep. Timothy F. Rogers, Attorney, Columbia, term runs concurrent with term of office.

Mrs. DeAnna Trout, Businesswoman, Moncks Corner, term expires August 31, 1994.

Mr. Emil W. Wald, Attorney, Rock Hill, term expires August 31, 1991.

Mr. Harry Walker, Businessman, Columbia, term expires August 31, 1992.

II. COUNCIL OF ADVISORS ON CONSUMER CREDIT

The Council of Advisors on Consumer Credit consists of 16 members who are appointed by the Governor. One of the



advisors is designated by the Governor as chairman. The Council advises and consults with the Administrator concerning the exercise of his powers under the S.C. Consumer Protection Code and may make recommendations to the Administrator. Members may assist the Administrator in obtaining compliance with the S.C. Consumer Protection Code. The following served as members of the Council of Advisors during the period July 1, 1990 through June 30, 1991.

Charlton Whipple, Chairman, Columbia, term expires August 15, 1991.

Adair Crawley, Secretary, Columbia, term expired August 15, 1989 but still serving.

Mason G. Alexander, Greenville, term expires August 15, 1991.

William C. Brock, term expires August 15, 1991.

Larry Emanuelson, North Charleston, term expires August 15, 1990.

F. M. C. Fralix, Columbia, term expires August 15, 1990.

Robert N. Hubbs, Lexington, term expires August 15, 1990.

C. Richard Kelly, Columbia, term expires August 15, 1992.

Daniel R. Molony, Charleston, term expires August 15, 1990.

William W. Murphy, Columbia, term expired August 15, 1989 but still serving.

Derrial L. Ogburn, Columbia, term expires August 15, 1992.

Linda Reeves, Rock Hill, term expired August 15, 1988 but still serving.

Charlie Walters, Greenville, term expires August 15, 1993.

Patrick Earl Watson, Columbia, term expires August 15, 1991.

Two vacancies

### III. COMMITTEE ON CONSUMER AFFAIRS

The Committee on Consumer Affairs monitors the implementation of the S.C. Consumer Protection Code and serves as a continuing liaison between the S.C. Department of Consumer Affairs and the General Assembly. As of the date of this report the Committee Members are:



Sen. Isadore E. Lourie  
Sen. J. Verne Smith  
Rep. Dick Elliott  
Rep. Eugene LeRoy Nettles, Jr.  
Mr. James F. Lyles  
Ms. Blondell Ragin  
Mr. W. E. Vereen

#### IV. S.C. DEPARTMENT OF CONSUMER AFFAIRS

##### History and Purpose

The S.C. Department of Consumer Affairs was established by the S.C. Consumer Protection Code, the state law which governs consumer credit transactions and provides for consumer protection in South Carolina. The law, which was signed by the Governor on August 13, 1974 became effective on January 1, 1975. As the state agency designated to represent the interests of consumers, the S.C. Department of Consumer Affairs attempts to resolve complaints and seeks to inform and educate consumers in order to create an atmosphere in which consumers will be more aware of their rights and responsibilities in the marketplace. On July 25, 1978, the law was amended to create the division of Consumer Advocacy as a part of the S.C. Department of Consumer Affairs, in order to assure that the consuming public was represented before regulatory agencies undertaking to fix rates or prices for consumer products or services.

##### Organization

The S.C. Department of Consumer Affairs is organized into four divisions: Administration, Consumer Services (complaints), Consumer Advocacy and the Legal Division.

##### Main Objectives of the Department

As initially created, the primary function of the S.C. Department of Consumer Affairs was to regulate the consumer credit marketplace, to attempt to resolve any complaint arising out of the production, promotion or sale of consumer goods or services in South Carolina, whether or not credit is involved, and to promote a healthy competitive business climate with mutual confidence between buyers and sellers. The function and duties of the division of Consumer Advocacy are to provide legal representation of the consumer interest before state and federal regulatory agencies when these agencies undertake to fix rates or prices for consumer products or services or to enact regulations or establish policies. In addition to its legal representation role, the division of Consumer



Advocacy also monitors existing regulations, rate structures, and policies of special consumer interest and is charged with the responsibility of reporting, through the media, to the general public on the effect of the proposed changes on their lives. The department also licenses, registers and regulates motor clubs, physical fitness service organizations, pawn brokers, mortgage loan brokers and enforces the private personnel placement services act and the unsolicited telephone calls act.

#### Services

The S.C. Department of Consumer Affairs serves consumers through the following activities:

- (a) Analysis and investigation of individual complaints;
- (b) Investigation of business practices if patterns of fraud are indicated or suspected;
- (c) Referral to agencies with direct jurisdiction for immediate and specific assistance;
- (d) Public educational and informational programs designed to educate the consumer about credit practices and problems, unfair and deceptive practices, remedies and relief available to consumers and current utility and insurance issues;
- (e) Initiation of and participation in legal actions to prevent individuals from violating the S.C. Consumer Protection Code, to prohibit unconscionable conduct, and to protect consumers from having to pay excessive utility and insurance rates;
- (f) Inform consumers who file a request under the Freedom of Information Act whether complaints have been filed against a particular company and how said complaints were resolved;
- (g) Legal representation of the public in utility and insurance rate and policy proceedings before state and federal regulatory agencies.
- (h) Licensing and regulation of motor clubs, rent-to-own businesses, physical fitness service organizations, pawn brokers, mortgage loan brokers, automobile brokers, athletic agents, private personnel placement agencies and telephone solicitation companies.

The S.C. Department of Consumer Affairs does not:

- (a) Advise whether or not a business is reputable;
- (b) Advise a consumer to buy a particular product or service or to patronize a particular business; and
- (c) Provide information such as the location or phone number of a business.



## V. OFFICE OF ADMINISTRATOR OF CONSUMER AFFAIRS

The Administrator is appointed by the Commission on Consumer Affairs, serves at its pleasure, and is responsible to the commission for the following functions and purposes as prescribed by the S.C. Consumer Protection Code:

To further consumer understanding of the terms of credit transactions and to foster competition among the suppliers of consumer credit so that consumers may obtain credit at reasonable cost.

To protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit having due regard for the interests of legitimate and scrupulous creditors. To permit and encourage the development of fair and economically sound consumer credit practices.

To conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act.

To implement the S.C. Consumer Protection Code in the state of South Carolina in accordance with the terms and provisions therein contained.

To establish programs for the education of consumers with respect to credit practices and problems.

To counsel persons and groups on their rights and duties under the S.C. Consumer Protection Code.

To make appropriate studies to effectuate the purposes and policies of the S.C. Consumer Protection Code and to make the results of such studies available to the public.

To report on the use of consumer credit in South Carolina and to report on the problems of persons of small means in obtaining credit.

To cooperate with and assist the S.C. Attorney General, the United States Attorney and all state and local agencies performing consumer protection functions in carrying out their legal enforcement responsibilities for the protection of consumers.

To initiate and encourage programs to inform consumers of market practices and schemes which are fraudulent, deceptive or illegal; how to detect and avoid abusive consumer transactions; and of remedies and relief available to consumers.

To receive complaints of individuals pertaining to any consumer transaction arising out of the production, promotion or sale of consumer goods and services; endeavor to determine the probable basis and merit of such complaints and advise the complainant of such determination;

To refer to the appropriate state or federal agency any complaint which is under the jurisdiction of such agency for appropriate action;



To endeavor to bring about a voluntary adjustment of any such complaint not within the jurisdiction of any regulatory or enforcement agency;

To undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services;

To study the operation of consumer protection laws and recommend to the Governor and the General Assembly new laws and amendments to laws which would promote the protection of legitimate interests of consumers within this state.

The Administrator is also the Consumer Advocate for the state of South Carolina. The Consumer Advocate provides legal representation of the consumers interest before regulatory agencies undertaking to fix rates or prices for consumer products or services, enact regulations or establish policies.

The Consumer Advocate also monitors regulations, rate structures and policies of regulatory agencies and brings items of special interest and importance to consumers for their attention through the news media.

#### DIVISION OF ADMINISTRATION

The Division of Administration is responsible for providing budget, supply, personnel, training, data processing, news releases and consumer protection education and other administrative support to the S.C. Department of Consumer Affairs. In addition, the division is responsible for maintaining files and receipts of fees on the following acts:

- S.C. Consumer Protection Code and Credit Notification
- Maximum Rate Schedules
- Motor Clubs Service Act
- Physical Fitness Services Act
- Pawnbrokers Act
- Mortgage Loan Brokers Act
- State Continuing Care Retirement Community Act
- Athletic Agents Act

The following table shows the Budget Status Report for Fiscal Year 1990-1991.



# A. STATEMENT OF EXPENDITURES

ACCOUNT	APPROPRIATIONS	EXPENDED	BALANCE
<b>Administration:</b>			
Personnel: (FTE)	(18.00)		
Unclassified	117,110.00	117,110.00	0.00
Classified	282,708.00	282,708.00	0.00
Other	2,310.00	2,310.00	0.00
Operations:	346,356.00	345,866.00	490.00
<b>Legal:</b>			
Personnel: (FTE)	(16.50)		
Classified	384,944.00	384,549.00	395.00
Operations:	10,552.00	10,552.00	0.00
<b>Consumer Services:</b>			
Personnel: (FTE)	(10.00)		
Classified	207,616.00	207,616.00	0.00
Operations:	20,997.00	20,997.00	0.00
<b>Consumer Advocacy:</b>			
Personnel: (FTE)	(8.50)		
Classified	228,440.00	228,440.00	0.00
Operations:	336,622.00	288,818.00	47,804.00
<b>Employer</b>			
Contributions:	285,963.00	281,273.00	4,690.00
<b>Totals:</b>	<u>2,223,618.00</u> =====	<u>2,170,239.00</u> =====	<u>53,379.00</u> =====
<b>Total Authorized FTE</b>	<b>(53.00)</b>		

## Note 1 - Forfeiture of Financial Responsibility

In fiscal year 1991 the Department of Consumer Affairs received \$431,863.87 in settlement of litigations to be returned to the consumers of the state. These funds are to be carried forward to fiscal year 1992 for the same purpose.

## Note 2 - Violations of SCCPC or TILA

In fiscal year 1991 the Department of Consumer Affairs collected \$46,705.25 in administrative penalties to offset the cost of enforcement actions in process. A total of \$2,028.71 of these funds were carried forward for use in fiscal year 1992.







## REGISTERED CREDITORS

The S.C. Consumer Protection Code requires that persons who make consumer credit sales, leases or loans, or persons who engage in rent-to-own, and persons who take assignments of rights against debtors arising from such transactions are required to file a notification form and pay a notification fee to the S.C. Department of Consumer Affairs for each location at which such transactions are made. The following table shows the type, and number of locations of such creditors currently registered with the S.C. Department of Consumer Affairs.

	(1) Single Loc Creditors	(2) Multi Loc Creditors	(3) Multi Loc	(4) Total Loc Paying (1+3)	(5) Total Filings Mailed (1+2)
Appliance Dealers	67	26	118	185	93
Athletic Clubs	2	0	0	2	2
Automobile Parts	103	26	102	205	129
Banks	28	62	868	896	90
Boat/Airplane Dealers	13	3	6	19	16
Building Materials	60	21	153	213	81
Consumer Finance	144	82	729	873	226
Consumer Insurance	9	1	2	11	10
Consumer Lease	10	1	2	12	11
Cemeteries	18	6	12	30	24
Credit Unions	20	6	20	40	26
Department Stores	11	10	209	220	21
Educational Institution	4	0	0	4	4
Exercise Clubs	1	0	0	1	1
Farm Equipment	23	3	6	29	26
Florists	7	0	0	7	7
Funeral Homes	27	6	12	39	33
General Merchandise	8	3	9	17	11
Golf Course	0	0	0	0	0
Hardware/Paint Stores	59	7	20	79	66
Home Furnishings	210	51	200	410	261
Hospitals	12	5	19	31	17
Jewelry	43	29	129	172	72
Martial Arts	0	0	0	0	0
Mobile Homes	50	19	44	94	69
Motor Vehicles	472	57	80	552	529
Oil Companies	25	21	133	158	46
Pawn Brokers	2	0	0	2	2
Pharmacies/Drug Stores	36	2	4	40	38
Professionals	3	4	15	18	7
Premium Service	8	0	0	8	8
Real Estate	3	1	2	5	4
Recreation Vehicle	19	1	3	22	20
Rent to Own	11	30	162	173	41
Regulated Lenders	2	1	3	5	3



Repair Shops	2	0	0	2	2
Retail Merchants	232	56	177	409	288
Sales Finance	2	3	7	9	5
Spas & Health Clubs	2	1	2	4	3
Sporting Goods	8	2	5	13	10
Savings & Loan	8	27	277	285	35
Service Stations	3	0	0	3	3
Tanning Salons	0	0	0	0	0
Undetermined	4	1	4	8	5
Wearing Apparel	21	14	138	159	35
Weight Loss	0	0	0	0	0
	-----	-----	-----	-----	-----
TOTAL	1,792	588	3,672	5,464	2,380

# REVENUE:

Fees.....	\$496,710.00
Penalties.....	\$ 6,684.00
Total Received.....	\$503,394.00



# MAXIMUM RATE SCHEDULE FILINGS

The Consumer Protection Code Revision Act of 1982 requires that creditors who wish to charge an Annual Percentage Rate (APR) in excess of 18% must file a Maximum Rate Schedule (MRS) with the S.C. Department of Consumer Affairs. A Maximum Rate Schedule must also be posted in the creditor's place of business. The following table shows the number and type of creditors which have filed an MRS with the S.C. Department of Consumer Affairs for FY 1990-1991.

		Total Filings	Total Locations
AD	Appliance Dealers	132	224
AC	Athletic Clubs	1	1
AP	Automobile Parts	135	198
BA	Banks	90	1,087
BD	Boat/Airplane Dealers	8	9
BM	Building Materials	68	131
CF	Consumer Finance	319	1,308
CI	Consumer Insurance	2	2
CL	Consumer Leases	5	5
CP	Cemeteries	10	12
CU	Credit Unions	1	2
DS	Department Stores	10	130
EI	Educational Inst	1	1
EC	Exercise Clubs	1	1
FE	Farm Equipment	19	21
FL	Florists	0	0
FH	Funeral Homes	1	1
GM	General Merchandise	12	15
GO	Golf Course	0	0
HS	Hardware/Paint Stores	59	76
HF	Home Furnishings	329	473
HO	Hospitals	0	0
JL	Jewelry	61	156
MA	Martial Arts	0	0
MH	Mobile Homes	65	72
MV	Motor Vehicles	744	768
OC	Oil Companies	23	95
PB	Pawn Brokers	0	0
PH	Pharmacies/Drug Stores	4	4
PR	Professionals	3	3
PS	Premium Service	1	1
RE	Real Estate	4	4
RV	Recreation Vehicles	23	24
RO	Rent To Own	17	34
RL	Regulated Lenders	2	4
RP	Repair Shops	3	3
RM	Retail Merchants	450	512
SF	Sales Finance	1	1
SP	Spas & Health Clubs	4	4



SG	Sporting Goods	21	23
SL	Savings & Loan	31	367
SS	Service Stations	4	4
TS	Tanning Salons	0	0
UN	Undetermined	4	4
WA	Wearing Apparel	10	22
WL	Weight Loss	0	0
	TOTAL	2,678	5,802

**REVENUE:**

Certified Copy Fees.....	\$ 60.00
Certified Rate Filing Fees.....	\$54,520.00
Total Received.....	\$54,580.00

**MOTOR CLUB FILINGS**

The Motor Club Services Act requires that all motor clubs doing business in the state, and representatives of these clubs, file with the S.C. Department of Consumer Affairs. The following information represents the motor clubs and motor club representatives filing with the S.C. Department of Consumer Affairs for FY 1990-1991.

Motor Clubs .....	36
Motor Club Representatives .....	1,464

**REVENUE:**

Motor Clubs .....	\$18,000.00
Representatives .....	\$29,280.00
Total Received .....	\$47,280.00



## PHYSICAL FITNESS FILINGS

The Physical Fitness Services Act requires that all businesses offering physical fitness services in the state file with the S.C. Department of Consumer Affairs. The following information represents the physical fitness filing with the S.C. Department of Consumer Affairs for the FY 1990-1991.

	Total Filings	Total Locations
AC Athletic Clubs	33	35
DS Dance Studios	10	10
EC Exercise Clubs	63	71
GO Golf Courses	21	21
HS Health Spa	1	3
MA Martial Arts	29	34
RM Retail Merchant	4	4
RO Rent To Own	2	3
SP Spas & Health Clubs	22	25
TS Tanning Salons	368	376
WL Weight Loss	<u>49</u>	<u>79</u>
<b>Total</b>	<b>602</b>	<b>657</b>

### REVENUE:

Certificate of Authority... \$27,150.00

## PAWNBROKER

The Pawnbroker Act requires that all businesses offering pawnbroker services in the state file with the S.C. Department of Consumer Affairs. The following information represents the pawnbrokers filing with the S.C. Department of Consumer Affairs for FY 1990-1991.

PAWNBROKERS FILINGS . . . . .	181
PAWNBROKERS LOCATIONS . . . . .	182

### REVENUE:

PAWNBROKERS . . . . . \$49,075.00

## MORTGAGE LOAN BROKERS

The Mortgage Loan Brokers Act requires that all businesses offering mortgage loan broker services in the State file with the S.C. Department of Consumer Affairs. The following information represents the mortgage loan brokers filing with the S.C. Department of Consumer Affairs for FY 1990-1991.

BUSINESS CATEGORIES	TOTAL FILINGS	TOTAL LOCATIONS
CF CONSUMER FINANCE	1	1
MB MORTGAGE BROKER	97	102
TOTAL	98	103

### REVENUE:

MORTGAGE LOAN BROKERS. . . . . \$49,000.00

## ATHLETE AGENTS AND STUDENT ATHLETES

The Athlete Agents and Student Athletes Act requires that all Athletic Agents operating in this state file with the South Carolina Department of Consumer Affairs. The following information represents the Athletic Agents filing with the South Carolina Department of Consumer Affairs for FY 1990-1991.

ATHLETIC AGENTS FILING . . . . . 6

### REVENUE:

ATHLETIC AGENTS . . . . . \$1,800.00



## LEGAL DIVISION

The investigative and legal enforcement activities of the South Carolina Department of Consumer Affairs are assigned to the Legal Division which consists of three staff attorneys, a chief investigator, eight investigators, a paralegal and a secretary and is supervised by the Deputy for Regulatory Enforcement. Selected consumer complaints are investigated for possible violations of the law. The Division cooperates with appropriate federal, state, county, and local authorities as required.

Investigations conducted include both an information gathering procedure on selected complaints where suspected violations of the Code may be involved as well as more formal investigations where a violation of the Consumer Protection Code or other law administered by the agency is either evident or suspected.

During FY 1990-1991, the S. C. Department of Consumer Affairs continued a joint state-federal odometer investigation and prosecution effort. An investigator from the S. C. Department of Consumer Affairs continued as a special agent of the federal grand jury and was responsible for developing odometer tampering cases for federal criminal prosecution.

As a result of the odometer tampering cases successfully prosecuted during FY 1990-1991 the Department continued to receive media attention. The S. C. Department of Consumer Affairs continued to receive citizens' complaints which were investigated. A total of eight cases were successfully prosecuted, and all of them were prosecuted under the new federal felony statute for odometer tampering.

A total of 60 citizens' inquiries were received requesting the authenticity of their automobiles odometer be determined. Restitution in the amount of \$6,000 was made to consumers and the Department received \$4,000 for reimbursed cost of court appearances. The joint investigation is ongoing.

## Civil Enforcement

During FY 1990-1991, the Department finalized and implemented settlements reached in a previous fiscal year. One settlement was of a class action involving an auto manufacturer acceptance company. The Department had alleged the company had systematically failed or refused to send cure notices to consumers prior to repossessing their vehicles. Pursuant to that settlement, in mailings in September 1990 and May 1991, affected class members received just over \$380,000 in reimbursement and had derogatory credit information related to the repossessions deleted. In addition, the company waived any further claims to deficiency balances or judgments resulting from the illegal repossessions. The total settlement had a value in excess of \$2 million.

The Department likewise fully implemented the settlement in a suit against a low country automobile dealer for charging



undisclosed closing fees. In February 1991 the Department mailed out checks for over \$80,000 to affected consumers in the Charleston area.

The Department also settled the Bell Finance case which was initiated in 1986, and later successfully appealed to the Court of Appeals. Bell's successors in interest made available \$30,000 to reimburse approximately 1,200 affected consumers and those checks were mailed in January 1991 to approximately 1,200 customers in the Charleston area.

The Landbank Equity case, a federal District Court case opened in September of 1985 was put back on the active roster in February 1991. The Court granted the Department leave to expand discovery by filing extensive Requests to Admit. Those requests were served on principals of the company who are serving sentences in federal prisons. The requests (not responded to) will be used to support a summary judgment motion.

Finally, the Department sued a sole proprietorship which the Department alleged had engaged in sham sale and lease back transactions in order to avoid the rate and charge restrictions and the collection practice restrictions of the Consumer Protection Code. Based on information that the company was continuing to assess the challenged charges and was continuing to repossess consumers' vehicles without legal notice, the Department sought a temporary injunction against the company. This matter was heard and the temporary injunction granted in May 1991. The Department is continuing to prosecute the case for a permanent injunction and a determination of consumers' damages. The proprietor, however, substantially ceased ongoing operations and left the state shortly after the temporary injunction was granted.

#### Administrative Enforcement

During FY 1990-1991, the Department continued and increased its efforts in administrative enforcement of the South Carolina Consumer Protection Code and the other laws it enforces.

During FY 1990-1991, the Administrator issued final decisions in three cases heard in previous fiscal years. Two cases were brought pursuant to the telephone solicitation act, where the staff alleged that two vacation time sharing companies had violated the act by making telephone solicitations to the time share units of competitor companies. The Administrator's Orders, ultimately signed July 1, 1991, found no violations because the notice given by the homeowners association of the competitors had not specifically pointed out the units not to be called. The Administrator, however, ordered that copies of any subsequent notices received by the respondents be forwarded to the Department and that respondents immediately comply with any properly prepared notice.

In February, 1991, the Administrator also decided a case involving a tax refund discounter. The discounter was found to be making consumer loans and was ordered to cease and desist making such loans at more than 18% APR, until and unless it



acquired a supervised or restricted lenders' license from the Board of Financial Institution. At printing, the discounter's appeal to the Richland County Court of Common Pleas is pending.

Also in FY 1990-1991, The Department, jointly with the staff of the Consumer Finance Division of the Board of Financial Institutions, resolved two matters involving consumer finance licenses. The first involved two affiliated supervised lenders whom the staff alleged had "packed" or forced accidental death and dismemberment insurance on customers who either did not want it or did not know they had it. The penetration rate for the sale of this insurance exceeded 70% for one three month period at one licensed location. The case was settled with the payment of a fine of just over \$45,000.00, a thirty day license suspension at one licensed location, a consensual limitation of 18% APR for the same thirty days at all South Carolina licensed locations, written notice to affected consumers giving them a choice of cancellation option and the company adopted procedures designed to prevent future violations. Refunds made pursuant to the agreement exceeded \$202,000.00 with a total impact to the company, considering the fine, refunds and loss of income in the branches to be approximately \$640,000.00.

The other consumer finance matter, likewise brought jointly with the Board of Financial Institutions' staff, was a license revocation proceeding against a supervised licensee whose president pled guilty to federal gambling charges. That matter was concluded with a Consent Order for License Relinquishment executed April 19, 1991.

The Department also continued its administrative enforcement efforts in the areas of licensed businesses and unfair trade practices. In these hearings, primarily involving pawnbrokers and physical fitness service providers, the staff requested relief ranging from fines and penalties to license revocation. A summary of those actions and their resolutions is set forth in Schedule A.

The Department also maintained its advertising review system designed to prevent Truth in Lending or Unfair Trade Practices violations in consumer advertising and to encourage the use of established guidelines in advertising. A media advertisement by a merchant which appears to be violative cause the staff to send a review letter explaining the problem and recording it for later use in the event enforcement action is necessary. A breakdown of subject and category of these review letters is set forth in Schedule B.

#### Licensing Application Reviews

The staff routinely receives and acts upon license applications for prospective pawnbrokers, mortgage loan brokers, physical fitness service providers, motor clubs and athletic agents. The staff must make determinations ranging from adequacy of financial security to character and fitness to fingerprint identification and recommendations of local law enforcement

agencies (pawnbrokers). A breakdown of application reviews is set forth as Schedule C.

#### Compliance Reviews

The staff also reviews licensed businesses for compliance with governing laws. The staff compares the providers' contracts and payment records against prepared checksheets for accuracy, disclosure compliance and compliance with Code limitations. A month by month breakdown of reviews conducted in FY 1990-1991 is set forth in Schedule D.

#### Special Projects

During FY 1990-1991, the staff continued an ongoing investigation in cooperation with the U. S. Attorney's office into fraud in the sale of manufactured housing. Also, an investigator was assigned to assist the offices of the U. S. Attorney in the indictment and prosecution of a bulk meat fraud case. That case resulted in mail fraud convictions for three bulk meat sellers and an additional tax evasion sentence for one of them in October of 1991.

Two pieces of legislation were enacted in FY 1990-1991 adding to the Department's responsibilities. In the first, Act 132 of 1991, the Department is made the licensing authority for auto brokers or sublessors. It prevents brokers from engaging in that business without being bonded, disclosing buyers' and sellers' rights and duties, and obtaining the lienholders written authorization to arrange the sale or sublease. The other, Act 142 of 1991 added certain allowable fees under the Consumer Protection Code, reduced allowable credit life premiums and added to allowable administrative remedies under the Pawnbroker Act, the Physical Fitness Service Act and the Unfair Trade Practices Act.



# SCHEDULE A

Administrative Enforcement Hearings: 69

Month	Phys. Fit.	Pawn- broker	Mortg. Broker	Tele. Sol.	Prob. Cause	Board Fin.	Other
July, 1990	0	0	0	0	0	0	0
August, 1990	9	3	0	0	0	0	0
September, 1990	3	1	0	0	0	0	0
October, 1990	5	0	0	0	1	0	0
November, 1990	1	0	0	0	1	0	0
December, 1990	0	0	0	0	0	0	0
January, 1991	7	1	0	0	0	0	0
February, 1991	3	1	0	0	0	0	0
March, 1991	4	1	0	0	0	0	0
April, 1991	5	1	0	0	1	1	0
May, 1991	16	0	1	0	0	1	0
June, 1991	0	1	0	0	0	0	1
TOTALS	53	9	1	0	3	2	1

## Enforcement Hearing Resolutions

Resolution	Phys. Fit.	Pawn- broker	Mortg. Broker	Prob. Cause	Board of Fin Inst
Filed Before Hearing	11	1	0	0	0
Filed After Hearing	8	0	0	0	0
Settlement w/ Complaint Resolution	3	0	0	0	0
Settlement w/ Fine	0	0	0	0	1
Settlement w/ License Surrender	0	1	0	0	1
Cease & Desist Order	2	0	0	0	0
License Revoked	0	1	0	0	0
Order w/ Fine	0	2	0	0	0
Other Order	2	1	0	1	0
Consumer Reimbursement	3	0	0	0	0
Dismissed	6*	0	0	0	0
Continued to FY91-92	1	1	1	0	0
Under Advisement	0	0	0	1	0

\* These six cases were dismissed because the businesses had closed.

**SCHEDULE B**

**Advertising Review Letters: 327**

Month	Automobile	Manufact'd Housing	Jewelry	Regulated Business	Other
July, 1990	25	0	0	0	4
August, 1990	10	0	0	3*	7
September, 1990	9	0	0	0	3
October, 1990	9	2	0	1	4
November, 1990	17	5	0	1	5
December, 1990	21	0**	1	0	0
January, 1991	43	0	1	0	19
February, 1991	30	7	1	0	10
March, 1991	25	0	0	6	6
April, 1991	20	0	0	3	3
May, 1991	20	0	1	1	4
June, 1991	0	0	0	0	0
<b>TOTALS</b>	<b>229</b>	<b>14</b>	<b>4</b>	<b>15</b>	<b>65</b>

\* Mass mailout to Rent-to-Own businesses that waiver fees are considered unauthorized excess charges.

\*\* Mass mailout of Manufactured Housing Standards & Guidelines to all Manufactured Housing Dealers in South Carolina.

Breakdown of letters according to nature of business  
and subject of letter

Subject	Automobile	Manufactured Housing	Jewelry	Regulated Business	Other
TIL	61	6	0	4	21
Lease	51	0	0	0	4
Free	8	5	0	3	0
Rebate	22	0	0	0	0
Cash/Trade	12	0	0	0	0
Add-ons	11	0	0	0	2
Year/Model	15	0	0	0	0
New/Used	4	0	0	0	0
Sp Purchase	12	0	0	0	0
Liquidation	5	0	0	0	4
Factory	3	0	0	0	2
Author'z'd					
Publ Notice	6	0	1	0	10
Dealer Cost	3	1	0	0	0
Wholesale	0	0	1	0	7
Warranties	0	0	0	0	1
Substantiat'n	0	0	0	4	0
Other	15	2	2	4	14



# Automobile Advertising Review Letter Monthly Breakdown

Subject	7/90	8/90	9/90	10/90	11/90	12/90	1/91	2/91	3/91	4/91	5/91
TIL	8	4	2	1	2	6	11	6	5	11	5
Lease	3	1	2	2	7	4	6	8	9	3	6
Free	1	1	1	0	2	0	1	0	0	2	0
Rebate	2	1	0	1	2	7	0	2	2	1	4
Cash/Trade	0	0	1	2	1	0	2	3	1	1	1
Add-ons	1	0	0	0	1	1	3	4	0	0	1
Year/Model	2	1	2	1	1	1	3	1	2	0	1
New/Used	0	1	0	0	0	0	1	0	2	0	0
Special											
Purchase	3	1	0	0	0	0	2	3	1	1	1
Liquidation	1	0	0	0	0	0	2	2	0	0	0
Factory											
Auth'z'd	0	0	1	0	0	0	2	0	0	0	0
'Guar'teed											
Trade	0	0	0	1	0	0	0	0	0	0	0
Public											
Notice	0	0	0	0	0	1	5	0	0	0	0
Dealer											
Cost	0	0	0	0	0	0	1	0	2	0	0
Other	4	0	0	1	1	1	4	1	1	0	1

## SCHEDULE C

Licensing Application Reviews: 1162

Month	Pawn- brokers	Mortgage Brokers	Physical Fitness	Motor Clubs	Club Reps	Athletic Agents
July, 1990	31	7	9	0	0	0
August, 1990	4	0	10	0	0	0
September, 1990	4	31	5	10	0	0
October, 1990	7	23	3	14	48	0
November, 1990	0	5	100	3	51	0
December, 1990	3	8	97	1	11	0
January, 1991	0	14	122	0	0	5
February, 1991	3	8	53	0	1	1
March, 1991	11	6	61	0	7	1
April, 1991	4	5	76	0	0	0
May, 1991	51	5	68	0	0	0
June, 1991	85	4	86	0	0	0
TOTALS	203	116	690	28	118	7

# SCHEDULE D

Compliance Reviews: 311

Month	Pawnbroker	Physical Fitness	Rent-to-Own
July, 1990	11	3	3
August, 1990	16	24	1
September, 1990	11	4	4
October, 1990	32	0	4
November, 1990	12	2	0
December, 1990	6	3	4
January, 1991	0	0	0
February, 1991	2	0	0
March, 1991	4	1	2
April, 1991	1	11	0
May, 1991	4	34	0
June, 1991	4	23	85
TOTALS	103	105	103



## PUBLIC INFORMATION AND EDUCATION SECTION

### A. Public Information Activities

During the twelve months covered by this report the public information director and staff prepared news releases, magazine articles, scripts, speeches and maintained contact with newspapers, television or radio personnel through daily contacts and professional associations.

(a) A \$10,700.00 grant was awarded to the Department from the National Coalition for Consumer Education (NCCE)/ AT&T Credit Education Fund to use a mass media approach to expose consumers to credit information and education. More than 220 applicants from across the country applied for the grant and 23 were selected. Additionally, the Department plans to (1) provide a public awareness campaign for low-income consumers/general public; (2) provide seminars on credit for low-income service providers and (3) develop educational material on credit.

(b) Served as a judge for the 1990 Consumer Education Materials Contest sponsored by the National Coalition for Consumer Education in cooperation with the U.S. Food and Drug Administration.

(b) Provided follow-up major media coverage on Hurricane Hugo. NOTE: The Administrator was featured on a segment of ABC's morning news program GOOD MORNING AMERICA. Topic: Follow-up on progress made in home repairs/insurance matters on the anniversary date of Hurricane Hugo.

(c) Developed and produced six (3) public service announcements for the Department with accompanying FACT SHEETS for the following subject areas: odometers and credit (includes credit reporting).

(d) The Administrative Assistant continued a public information "recall" service (RECALL ROLL CALL) which consists of a bi-monthly four-page release listing recalls in the areas of food, vehicles, drugs, toys, and products. After media distribution is made, all recall notices are placed in the computer system under the subject category for quick access upon consumer request. This service generates over 300 call monthly.

(e) Continued to coordinate the activities of the South Carolina Consumer Education Council. This twenty-five member Council continued to improve and expand consumer education in schools, promote consumer education in non-traditional settings and coordinate efforts with business and government agencies so that duplication and gaps are eliminated.



(f) Arranged over 200 media contacts for appropriate SCDCA staff.

(g) Continued to produce a weekly in-house organ called THE WEEK AHEAD which is designed to improve communications and morale among agency personnel.

(h) Served as the liason for Carolina Healthstyles program. Attended meetings, submitted material for publication and developed and coordinated in-house programs and activities.

(i) Public Information Director also performed a variety of activities such as speeches, workshops and seminars for South Carolina consumers.

#### B. Educational Activities

The S.C. Department of Consumer Affairs utilized workshops, speeches, and media presentations to provide consumer education assistance to a wide cross-section of South Carolinians. The Department's educational activities continued to focus on a theme of "preventative consumerism" on such subjects as how to avoid frauds and schemes, healthy skepticism, effective consumer practices in handling consumer transactions ranging from automobile repairs to mail order purchases, coping with marketplace practices, and communicating more effectively with businesses in the resolution of complaints and problems arising out of consumer purchases of goods and services.

The educational programs were directed at students and teachers K-12 and college levels; and were provided for health institutions, churches, adult education programs, senior citizen groups, and other government agencies.

(a) Speeches were presented at 86 South Carolina schools, institutions of higher learning, business and professional groups and other civic and church related organizations. Consumer education exhibits and/or presentations were made at the following conferences:

1. State Home Economics Conference
2. State Superintendents and Administrators Conference
3. State Adult Education Conference
4. S.C. Council for Social Studies Educators-Fall Conference
5. The New Principal's Academy
6. Summer Leadership Academy - School Principals
7. S.C. State Fair
8. S.C. Displaced Homemakers and Sex Equity Conference.



(b) Maintained a Consumer Product Safety Network across the state involving representatives from businesses, health organizations, the educational system and other state and local agencies. The Department participated in workshops and health fairs sponsored by these agencies.

(c) Continued to work in cooperation with the Department of Social Services for its "Living Incentives for Tomorrow" program. The Program involves teenagers to senior citizens.

(d) Developed a Consumer Education Program entitled "Needs and Wants" to introduce the basic concept of consumerism to the elementary student. Designed for grades 1-6, it encourages the use of critical thinking and decision making skills for the young consumer.

## DIVISION OF CONSUMER SERVICES

### A. Consumer Complaint Procedure

When a consumer has a complaint, he or she should give the business an opportunity to remedy the situation. If personal contact and subsequent discussion does not resolve the problem, the consumer should contact the S.C. Department of Consumer Affairs. Consumers can call the S.C. Department of Consumer Affairs from anywhere in the state at no charge by using the department's toll free WATS line 1-800-922-1594. The consumer should briefly describe the nature of the problem. In most cases, the consumer will be sent a complaint form which should be filled out with all pertinent information and returned to the S.C. Department of Consumer Affairs along with copies of all contracts, warranties, guarantees, advertisements or other written agreements or transaction documentation. When the complaint form is returned, it is assigned to a complaint analyst who carefully reviews the complaint and determines what action should be taken. If a complaint falls within the jurisdiction of another state or federal agency, it is referred to that agency for action. The first step in resolving a typical complaint is to mail a copy of the consumer's complaint to the business complained against with an accompanying form from the department requesting that the business state its position, and suggest a resolution if it is the opinion of the business that an action is appropriate. When a reply is received from the business, the complaint analyst assigned to the complaint studies the position of both the consumer and the business and recommends further action or an appropriate closing. The activities of the Consumer Services Division breaks down into two separate categories which are summarized on the following Tables I and II.

Table I (and accompanying explanation) summarizes the day-to-day work activities in terms of number of telephone calls received, responded to and referred, complaints received, and other information and statistics of the work activities associated with that division.

Table II (and accompanying explanation) summarizes the manner in which complaint cases were completed and closed during FY 1990.

The Division Director gave speeches, interviews, and presentations to civic groups, newspapers, TV reporters and other media regarding consumer complaints. Consumer Services continued its coordination with the Public Information and Education Section in alerting them to unique consumer problems, scams and concerns which might warrant consumer education and media attention efforts. Consumer Services staff also continued to identify violations and to refer them to the Legal Department for action.



TABLE I

	FY1991	FY1990	FY1989
1. Telephone calls & inquiries received	64,244	64,041	48,148
2. Percent of Increase over Previous Year	.3%	24.8%	20.2%
3. Written Complaints Received*	4,560	5,555	4,717
4. Complaints Referred to AUTOCAP	198	192	235
5. Telephone Inquiries Referred to other State/Federal Agencies	3,806	3,129	2,852

\* The Department attempts to handle and resolve as many cases as possible during telephone conversations with the consumer and business involved.

TABLE I

Explanatory Notes

1. This item refers to the total number of telephone calls received and handled by the Consumer Services Division. This includes general inquiry, advice and information calls; inquiries about whether or not a complaint has been filed against a company; etc.
2. This item refers to the percent of increase in total telephone calls received over the previous year.
3. No explanation necessary.
4. This item refers to automobile related complaints filed with the S.C. Department of Consumer Affairs but referred to AUTOCAP (Automotive Consumer Action Program) in a third-party mediation system designed to help dealers and consumers resolve disputes amicably and without resorting to litigation.
5. No explanation necessary.
6. No explanation necessary.
7. No explanation necessary.



TABLE II  
Written Complaints Closed  
July 1, 1990 - June 30, 1991

CLOSING STATUS	NUMBER	PERCENT
Satisfied	2339	73.0
Unsatisfied	387	12.0
Insufficient Merit	44	1.0
Abandoned by Consumer	207	7.0
Undetermined or Disputed Facts	230	7.0
Subtotal	3207	
Referred	1202	
Information Only	<u>437</u>	
TOTAL	4846	
100%		

TABLE II  
Explanatory Notes

\$426,618.00 was recovered for consumers in refunds, or adjustments during FY 1991. 4846 complaints were closed in the year ending June 30, 1991. Of this total, 2339 of the 3207 complaints actually handled by the division were closed as satisfied. Not all of the consumers whose complaints were closed as satisfied received refunds. Some of these consumers received an explanation from the business which the S. C. Department of Consumer Affairs accepted as satisfactory.

1202 complaints were referred to other state or federal agencies having primary jurisdiction in the matter about which the consumer complained. 437 of the complaints were closed as information only, and required no action by the Department.

Table III  
Complaint Categories Containing Greatest  
Number of Complaints

Rank in FY 1991		Rank in FY 1990	Number FY 1991	Percent of Total Complaints
1.	Vehicles	1	1055	21.8
2.	Contractors/Builders	2	410	8.5
3.	Financial Institutions	4	382	7.9
4.	Appliances	5	242	5.0
5.	Credit	7	221	4.6
6.	Scams/Prizes	--	215	4.4
7.	Mail Order	6	211	4.3
8.	Regulated Companies	3	179	3.7
9.	Stores	--	162	3.3
10.	Home Furnishings	10	128	2.6



Table IV  
Written Complaints Received by County

July 1, 1990 - June 30, 1991

Counties	Population	Complaints Received	Complaints per 1000 Persons
Abbeville	23,862	24	1.00
Aiken	120,940	76	.63
Allendale	11,722	7	.60
Anderson	145,196	91	.63
Bamberg	16,902	17	1.00
Barnwell	20,293	14	.69
Beaufort	86,425	103	1.19
Berkeley	128,776	94	.73
Calhoun	12,753	12	.94
Charleston	295,039	382	1.29
Cherokee	44,506	39	.88
Chester	32,170	17	.53
Chesterfield	38,577	24	.62
Clarendon	28,450	21	.74
Colleton	34,377	26	.76
Darlington	61,851	52	.84
Dillon	29,114	25	.86
Dorchester	83,060	86	1.03
Edgefield	18,375	5	.27
Fairfield	22,295	52	2.33
Florence	114,344	91	.79
Georgetown	46,302	34	.73
Greenville	320,167	237	.74
Greenwood	59,567	39	.65
Hampton	18,191	8	.44
Horry	144,053	75	.52
Jasper	15,487	29	1.87
Kershaw	43,599	84	1.93
Lancaster	54,516	1	.02
Laurens	58,092	34	.59
Lee	18,437	7	.38
Lexington	167,611	441	2.63
McCormick	8,868	5	.56
Marion	33,899	54	1.59
Marlboro	29,361	15	.51
Newberry	33,172	38	1.14
Oconee	57,494	61	1.06
Orangeburg	84,803	127	1.50
Pickens	93,894	24	.25
Richland	285,720	1170	4.09
Saluda	16,357	7	.43
Spartanburg	226,800	84	.85
Sumter	97,000	178	1.83
Union	30,500	16	.52

Williamsburg	38,500	33	.86
York	127,000	77	.61
TOTAL, SC	3,469,000	4136	
TOTAL - N.C. GA.,			
OTHER		424	
TOTAL WRITTEN COMPLAINTS		4560	



## DIVISION OF CONSUMER ADVOCACY

### I. Function

The Division provides legal representation of the consumer interest before state and federal regulatory agencies undertaking to fix rates or prices for consumer products or services, enact regulations or establish policies. The Division also monitors regulations, rate structures and policies of consumer-related agencies and reports proposed changes and the effect of such changes on the lives of the citizens of the State to the public through the media.

### II. Administrative Hearings

#### A. Public Service Commission (PSC)

The Division of Consumer Advocacy participated in 124 proceedings before the Public Service Commission (PSC) involving approximately \$13,675,720. Those hearings primarily involved requests for rate increases and new charges by telephone and electric utilities, gas companies, transportation companies and water and sewer companies. The PSC approved increases totaling approximately \$6,552,498 in additional revenues or 48% on average of the amounts requested. In many cases, the Division of Consumer Advocacy presented expert testimony on cost of capital, accounting, and rate design issues under consideration.

In addition, the Division of Consumer Advocacy assisted customers of both regulated and non-regulated utilities with questions about their bills and possible service problems.

#### B. S.C. Department of Insurance

The Division of Consumer Advocacy participated in hearings involving 52 insurance filings at the S.C. Department of Insurance. Those filings involved 23 automobile insurance cases, 3 homeowners case, 1 medical professional liability case, 18 workmen's compensation cases, and other various cases. In the completed cases, the Chief Insurance Commissioner approved increases in premiums totaling approximately 72,643,138 or 76% of the \$95,114,137 requested.

The Division of Consumer Advocacy also assisted consumers who had complaints about insurance companies.

Finally, the Division of Consumer Advocacy monitored insurance legislative developments, reviewed various legislative proposals that would affect South Carolina policyholders, and assisted the Governor's office and the General Assembly in developing proposals. It also assisted the legislative Insurance Law Study Committee in compiling reviewing various South Carolina insurance statutes.

## C. Federal Agencies

### 1. Federal Energy Regulatory Commission (FERC)

The Division of Consumer Advocacy participated in two separate rate establishment cases before FERC involving proposed purchased power agreements. Carolina Power and Light Company sought approval to purchase power from Duke Power Company in one case and from American Electric Power Service Corporation in the other. The Duke/CP&L case is still pending.

The Division of Consumer Advocacy is still participating in a pending FERC Notice of Inquiry concerning transmission service and sales-for-resale and three pending FERC Notices of Proposed Rulemaking concerning avoided costs for qualifying facilities, bidding systems, and independent power producers.

The Division of Consumer Advocacy participated in an American Electric Power Service Corporation whereby the company sought to sell Carolina Power and Light Company (CP&L) capacity in AEP's Rockport 2 unit to CP&L and associated transmission capacity at 10.25/KW/mth and a \$2.00/KW/mth charge for transmission capacity. The Consumer Advocacy Division convinced FERC that the proper capacity charge was \$8.92/KW/mth. This reduction represents a \$100 million savings to CP&L and its customers over the 20 year life of the agreement. Subsequent to this proceeding AEP requested FERC increase the transmission component of the rate from \$2.00/KW/mth to \$2.80/KW/mth or a 40% increase. All parties entered into an agreement whereby AEP would be allowed to increase the transmission component from \$2.00/KW/mth to \$2.35/KW/mth or a 7.5% increase which was accepted by the Federal Energy Regulatory Commission.

Carolina Power & Light Co., ER-91-381-000: CA Intervened in case where Company seeks to increase the return on common equity under its formula rate for backstand power and transmission. FERC staff accepted the filing on May 23, 1991. (CM)

Public Conference on Electricity Issues, PL 91-1-000: CA filed comments in FERC electricity issues for its new generic electric docket on June 19, 1991. (RL)

Carolina Power and Light Co./North Carolina Electric Membership Corporation, Project Nos. 432, 2748: Consumer Advocate filed letter supporting CP&L's application for renewal of its relicense for the Walters Hydroelectric Project. (RL)

### 2. Federal Communications Commission (FCC)

The Division of Consumer Advocacy monitored a variety of decisions, policies, and proposals before the Federal Communications Commission affecting South Carolina telecommunications subscribers.

The Division of Consumer Advocacy is still participating in a pending FCC Notice of Proposed Rulemaking concerning price cap regulations and policies for dominant, as well as local exchange, carriers.



### 3. Securities and Exchange Commission (SEC)

The Division of Consumer Advocacy is participating in review of the provisions of the Public Utility Holding Company Act (PUHCA) to evaluate any need for legislative change. The Division is also participating in evaluating a proposed SEC rule on diversification by intrastate exempt holding companies, such as SCANA.

### 4. Department of Energy

On January 22, the Department testified at the invitation of DOE Secretary Watkins and FERC Chairman Allday on Federal/State Issues in developing a National Energy Strategy. Legislation is still pending.

## III. Civil Proceedings

### A. Utility Litigation

The Division of Consumer Advocacy has been involved in 24 appeals to the Circuit Court of final orders of the Public Service Commission. Four cases were argued by the Division of Consumer Advocacy before the Circuit Court. Three cases were argued before the S.C. Supreme Court and five are pending before that Court.

On February 19, the United States Supreme Court denied the Petition for a Writ of Certiorari by Southern Bell (No.90-704). The Consumer Advocate's office filed the brief with the United States Supreme Court successfully opposing the Petition. Southern Bell had alleged that the South Carolina Supreme Court had created a new evidentiary rule that was retroactively applied to it and a denial of procedural due process resulting from the South Carolina Supreme Court's reversal of a Touch-Tone rate increase authorized by the S.C. Public Service Commission. In June 1991, the South Carolina Supreme Court reversed the lower court and Public Service Commission's orders because they were not based on substantial evidence in the record. The Supreme Court decision, advocated by the Consumer Advocate will result in refunds to the public in excess of \$10 million.

The Division of Consumer Advocacy has continued to monitor Federal court cases in conjunction with the National Association of State Utility Consumer Advocates (NASUCA).

### B. Insurance Litigation

Fair Share, an organization representing certain low income citizens, appealed the Chief Insurance Commissioner's two Orders approving increases in private passenger automobile rates for S.C. Farm Bureau and Southern Bureau. The Consumer Advocate participated in the hearings before the Insurance Commissioner and was served with the Petition for Judicial Review but was not named as a respondent. The Consumer Advocate wrote a letter



stating he will not file a Return or Answer but will attend any hearings on the matters.

#### IV. Organizational Involvement

During the past year the Consumer Advocate and a Division staff attorney continued to participate in a Senate Select Committee on Health Care Cost Containment. The Consumer Advocate served on the Reinsurance Facility Board of Governors and provided recommendations on various automobile insurance issues.

During the past year the Deputy Consumer Advocate served as Secretary and as an Executive Committee member of the National Association of State Utility Consumer Advocates (NASUCA). In that capacity he and other Division of Consumer Advocacy attorneys actively participated in court proceedings, in hearings before Congress, and in seminars and public service talks on utility-related matters.

Two Staff Attorneys for the Division of Consumer Advocacy have been appointed to serve on the NASUCA Gas and Telecommunications Committees.

#### V. Legislative Involvement

##### A. Federal Legislation

At its request, the Division of Consumer Advocacy continued to assist the National Association of State Utility Consumer Advocates (NASUCA) in its ongoing evaluation of the potential impact of holding company act amendments, and other energy and telecommunication on utilities.

The Division of Consumer Advocacy also monitored other Federal legislation related to FERC and FCC regulatory matters.

##### B. State Legislation

The Division of Consumer Advocacy monitored and evaluated legislation affecting the interests of consumers and also assisted the legislative Insurance Law Study Committee, the staff of the S.C. Department of Insurance, and various legislators regarding proposals to change existing laws.

##### C. Administrative Regulations

The Division of Consumer Advocacy participated in hearings on proposed amendments to regulations, procedures, and guidelines of the S.C. Public Service Commission.



## INFORMATION PROCEDURE

Requests for information may be made to any appropriate division of the S.C. Department of Consumer Affairs. The appropriate division for inquiries relating to complaints or statistics is the division of Consumer Services. The appropriate division for inquiries relating to office management, personnel, budget, notifications, and fees is the division of Administration.

All requests for information which require a response in the nature of a legal opinion or interpretation or a statement of official policy or position of the agency must be submitted in writing.

Submissions or suggestions designed to improve the operation of the S.C. Department of Consumer Affairs should be submitted in writing to the Administrator of the S.C. Department of Consumer Affairs, without regard to the division or activity to which they may pertain.

Requests for copies of publications, which may from time to time be issued by the S.C. Department of Consumer Affairs, should be addressed to the division of Administration. These requests may be in writing, by telephone or by personal visit.

Requests or submissions of any nature may be made in writing to the office of the Administrator of the S.C. Department of Consumer Affairs.

The agency's offices are located at 2801 Devine Street, Columbia, S.C. The mailing address is the S.C. Department of Consumer Affairs, P.O. Box 5757, Columbia, S.C. 29250. The toll free WATS line number is 1-800-922-1594.



## HISTORICAL DATA

August 13, 1974	The S.C. Department of Consumer Affairs was established by Act 1241 of 1974, as amended.
August 19, 1974	First commissioners appointed to the S.C. Commission on Consumer Affairs.
August 29, 1974	First members appointed to the Council of Advisors on Consumer Credit.
September 30, 1974	Irvin D. Parker of Columbia appointed as the first administrator of the S.C. Department of Consumer Affairs.
November 1, 1974	S.C. Department of Consumer Affairs became operational.
September 29, 1976	Act 686 of 1976, which added to the S.C. Consumer Protection Code those portions of the Uniform Consumer Credit Code which pertained to loans and licensed lenders, became effective.
July 25, 1978	The Division of Consumer Advocacy was created by Act 644, as a new division within the S.C. Department of Consumer Affairs, with the designation of the Administrator of Consumer Affairs as the Consumer Advocate. The Act also altered the composition of the Commission on Consumer Affairs, increasing its membership to 11.
Spring, 1980	Acts 326, 337, 411, 433 and 475 were passed which provided substantial changes to the S.C. Consumer Protection Code. These changes included clarification of the law regarding usury; retention of minimum charge for consumer credit sales/loans repayment; brought State Chartered Credit Unions under the S.C. Consumer Protection Code; allows 90 days for the S.C. Insurance Commissioner to approve or disapprove forms and rate schedules; provides escalator provision for designated dollar amounts in S.C. Consumer Protection Code; increased allowable rates for revolving charge accounts and for nonsupervised lenders; conformed 3 month S.C. Consumer Protection Code notice provision to Federal Reserve Board regulation; addresses mail order loan territorial application sales/loan situation.



June 12, 1981	Act No. 107, the S.C. Private Personnel Agency Act was passed. This legislation licenses, regulates and monitors the activities of employment agencies or individuals engaged in obtaining employment for others and designates the S.C. Department of Consumer Affairs, among others, as an agency responsible for investigating complaints from consumers about the activities of employment agency type businesses as well as using their enforcement jurisdiction and authority when appropriate.
July 1, 1981	Irvin D. Parker of Columbia resigned as administrator/consumer advocate of the S.C. Department of Consumer Affairs.
August 4, 1981	Roy C. Harms appointed Acting Administrator of the S.C. Department of Consumer Affairs. Steven W. Hamm appointed Acting Consumer Advocate of the S.C. Department of Consumer Affairs.
September 22, 1981	Steven W. Hamm of Columbia appointed as Administrator/Consumer Advocate of the S.C. Department of Consumer Affairs.
July 1, 1982	Act 385, the Consumer Protection Code Revision Act of 1982 became effective. The act deregulates interest rates and provides for a business established maximum rate structure. All first mortgage loans were removed from the S.C. Consumer Protection Code and some additional charges were provided for. Consumer protections were increased by strengthening the provisions on unconscionability, requiring other state agencies to investigate complaints, providing the S.C. Department of Consumer Affairs with authority to investigate unfair trade practices and to file suit on behalf of consumers when the actual damages were \$300 or less.
December, 1983	Governor Richard W. Riley designated the S.C. Department of Consumer Affairs as an additional official liaison with the U.S. Consumer Product Safety Commission which has duly commissioned its officials, under the authority of the U.S. Consumer Product Safety Act, to conduct inspections and investigations under the Consumer Product



Safety Act, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, the Flammable Fabrics Act, and the Refrigerator Safety Act.

September 20, 1984

The Motor Club Services Act became effective. The act requires that any organization which sells, furnishes or makes available to its members any motor club services must obtain from the S.C. Department of Consumer Affairs a Certificate of Authority to operate. Application for an operating Certificate of Authority requires a bond or deposit of bond in cash or securities of \$50,000, a certified copy of its charter from the Secretary of State, articles of incorporation, by-laws, financial statement and an explanation of its plan for doing business plus other documentation. The law applies to towing services, bail and arrest bond service, emergency road services, claim adjustment services, legal services, map services, emergency travel expense services, merchandise and discount services, travel touring and travel information services, financial services, check cashing services, personal property registration services, credit card services, insurance services, and buying and selling services to club members.

June 6, 1985

Act No. 127 of 1985 became effective. The act provides that a creditor may contract for property insurance on property all or part of which is related to the credit transaction.

June 20, 1985

Act No. 153 of 1985 was signed into law by Governor Richard W. Riley. The act amended the Consumer Protection Code so as to make it clear that it was unconscionable to charge excess prepaid finance charges no matter how those charges were designated if they substantially exceeded the usual and customary charges for a particular type of loan. The intent of the act was to prevent misrepresentation of rates and the charging of unconscionable rates no matter how they were disclosed or identified.

June 24, 1985

Governor Richard W. Riley signed the Physical Fitness Services Act into law. The act provides that everyone providing



physical fitness services, for profit, in South Carolina must pay a yearly fee and obtain a Certificate of Authority from the S.C. Dept. of Consumer Affairs. Organizations utilizing membership contracts must post a bond or demonstrate financial responsibility that will satisfy claims against the bond. All operators must submit a certified copy of their charter from the Secretary of State, copies of membership agreements and contracts and a list of all outlets. Organizations that have been in business for five years are exempt from the bonding requirement.

**January 1, 1986**

Act No. 121 of 1985 became effective. The act added Part 7 to Chapter 2 of the South Carolina Consumer Protection Code. The part regulates consumer rental-purchase agreements and requires rental-purchase businesses to file a notification form with the S. C. Dept. of Consumer Affairs.

**May 6, 1986**

Act No. 401 of 1986, which authorized a two dollar minimum charge for property insurance, became effective.

**May 12, 1986**

Governor Richard W. Riley signed into law an act providing that no action for damages arising out of the defective or unsafe condition of an improvement to real property may be brought more than 13 years after substantial completion of the improvement. The act requires the S. C. Dept. of Consumer Affairs to publish notice of owners' or possessors' right to enter into any contractual agreement which extends any guarantee of an improvement being free from defect beyond the 13 years as provided in the act.

**June 3, 1988**

Act No. 16-17-445 of 1988 became effective. The act placed restrictions on unsolicited and automatically dialed consumer telephone calls and designated the Department as the enforcement agency.

**July 1, 1988**

Act No. 166 of 1987 became effective whereby the Consumer Advocate is to review auto insurance rate and recoupment filings to ensure compliance with the Act.



July 1, 1988

Act No. 491 of 1988 became effective. The act defines, clarifies and limits the charges and fees that may be imposed in connection with a pawn transaction and designated the Department as the enforcement agency.

October 1, 1988

Act 544 of 1988 becomes effective. The act clarifies the steps that must be taken by a loan broker before funds from a customer can be earned and retained. The bill also requires loan brokers to register with the Department and to escrow any funds paid by a consumer until such time that the broker secures a loan for the consumer. An amendment to Act 544 was made April 26, 1989 with Act 52§2. The 1989 amendment replaced a penalty of \$1,000 dollars, with a "penalty of no less than one thousand no more than \$2,500, in the discretion of the administrator," and added provisions relative to decreasing the bonding requirement.

May 30, 1989

Act 119 of 1989. Governor Carroll A. Campbell, Jr. signed into law an act which amended portions of the South Carolina Code relating to credit service and loan finance charges. The act provides that when a lender has filed rates but has not posted them properly, that lender may be subject to a fine of up to \$5,000.00 payable to the Department of Consumer Affairs.

June 5, 1989

Act 142 of 1989. An act typically known as the "Lemon Law" became effective. It is designed to enforce express warranties on motor vehicles. The act provides for the manufacturer's reasonable attempts to cure, then replacement of the motor vehicle or a refund of the purchase price. The Department was directed to enforce the new act.

June 5, 1989

Act 144 of 1989. An act became effective which amended the Code to delete the requirement that a consumer incur additional debt after notification of a change in terms in revolving charge and loan accounts. The act also required such a notification to state that the consumer may pay the existing balance under the terms in effect, if the customer chooses to cancel the account. In



addition, sections 37-2-405 and 37-3-402 were amended to exempt from their requirements all credit transactions and all consumer loans if the contracts specified a formula for determining the rate of finance charge upon refinancing a balloon payment.

Act 164 of 1989 became effective amending sections 37-2-202, 37-3-202 & 37-10-102. Increases maximum allowed for assumption fees under the S.C. Consumer Protection Code.

July 1, 1989

Act 148 of 1989. The Automobile Insurance Reform Act went into effect in an attempt to lower the cost of mandatory automobile insurance. The act provides, among other things, that insurers be required to grant safe driver discounts. It also provides for a review of rates as well as periodic rate adjustments. Also incorporated in this act is the requirement that occupants of motor vehicles wear properly fastened safety belts. The Department of Consumer Affairs directed to intervene in Automobile Insurance rate filings before the Chief Insurance Commissioner.

July 1, 1990

Act 97 of 1990. The State Continuing Care Retirement Community Act. The act requires that the Department of Consumer Affairs issue a license to a person filing an application in accordance with section 37-11-30 of the S.C. Code of Laws if the Department is satisfied that: (a) the individuals responsible for the conduct of the affairs of the applicant are competent and trustworthy and have good reputations; (b) The continuing care retirement community is financially responsible and can meet its obligations to residents; (c) The operator has demonstrated a willingness and the potential ability to assure that the health care or health-related services will be of good quality; (d) The operator has complied with all requirements of DHEC concerning the furnishing of nursing, medical, or other health-related services.

July, 1990

Act 456 of 1990. The Athletic Agents Act requires that each athlete agent register biennially with the Department of Consumer Affairs on forms to be provided by the department and, at the same time, pay to the



department a registration fee of three hundred dollars, for which the department shall issue a certificate of authority entitling the holder to operate as an athlete agent for two years. The department may revoke or suspend the registration of an athlete agent for cause or for a violation of any provision of this chapter

June 12, 1991

Act 132 of 1991. The Department was made the licensing authority for auto brokers or its sublessors. It prevents brokers from engaging in that business without being bonded, disclosing buyers' and sellers' rights and duties and obtaining the lienholders written authorization to average the sale or sublease.

July 1, 1991

The law added certain allowable fees under the S.C. Consumer Protection Code, reduced allowable credit life premiums and added allowable administrative remedies under the Pawnbroker Act, the Physical Fitness Service Act and Unfair Trade Practices Act.



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